

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Amendment of Part 90 of the Commission's Rules)
to Provide for Flexible Use of the 896-901 MHz) WT Docket No. 05-62
and 935-940 MHz Bands Allotted to the Business)
and Industrial Land Transportation Pool)
)
Oppositions and Petitions for Reconsideration of) DA 04-3013
900 MHz Band Freeze Notice)

ORDER

Adopted: April 14, 2005

Released: April 14, 2005

By the Acting Chief, Wireless Telecommunications Bureau:

1. On February 16, 2005, the Commission released a *Notice of Proposed Rulemaking and Memorandum Opinion and Order (Notice)* seeking public comment regarding a proposal to auction unused spectrum in the 896-901 MHz and 935-940 MHz Bands presently allotted to the Business and Industrial Land Transportation Pool ("900 MHz B/ILT Pool"), in order to facilitate flexible use.¹ On March 18, 2005, a summary of the *Notice* was published in the *Federal Register*, establishing deadlines for the filing of comments and reply comments of April 18, 2005 and May 2, 2005, respectively.²

2. On April 4, 2005, several associations filed a request seeking a thirty-day extension of the comment period.³ The Associations contend that the current comment period does not provide commenters with a sufficient length of time to provide thorough and meaningful responses. In particular, the Associations note that they are currently gathering data concerning use of the 900 MHz band.⁴ Furthermore, they are conducting discussions with other interested parties in an effort to reach consensus that would allow a consistent filing position in this matter for most of the 900 MHz user communities, and believe that this effort will not be complete before the comment filing deadline (*i.e.*, April 18, 2005).⁵ In addition, AAR in particular has indicated that since release of the *Notice*, the railroad industries in the

¹ Amendment of Part 90 of the Commission's Rules to Provide for Flexible Use of the 896-901 MHz and 935-940 MHz Bands Allotted to the Business and Industrial Land Transportation Pool; Oppositions and Petitions for Reconsideration of 900 MHz Band Freeze Notice, WT Docket No. 05-62, *Notice of Proposed Rulemaking and Memorandum Opinion and Order*, FCC 05-31 (rel. Feb. 16, 2005) (*Notice*).

² See 70 Fed. Reg. 13143 (March 18, 2005).

³ See Request of the United Telecom Council, the National Association of Manufacturers and MRFAC, the Association of American Railroads ("AAR"), the American Petroleum Institute, the National Rural Electric Cooperative Association, and the Enterprise Wireless Alliance (collectively, "the Associations") for Extension of Time (filed April 4, 2005). ("Associations' Request").

⁴ Associations' Request at 6.

⁵ *Id.*

United States and Canada have formed a task force to evaluate the implications of the Commission's proposed rules.⁶ On April 12, 2005, Nextel Communications, Inc. filed an opposition to the Associations' request, arguing that any delay would adversely impact the Commission's 800 MHz rebanding effort, and would delay Nextel's opportunity to obtain, through the auction process, any unused 900 MHz B/ILT spectrum.⁷

3. Although it is the policy of the Commission that extensions of time shall not be routinely granted,⁸ we find that a limited extension of time in this instance will facilitate the development of a complete record for the Commission's review. The *Notice* specifically seeks comment on a wide variety of technical issues, including the potential for harmful interference that new licensees operating significantly different equipment may cause incumbent 900 MHz B/ILT licensees.⁹ We conclude that a short extension of time is warranted to enable interested parties sufficient opportunity to review the complex issues raised by the *Notice*, as well as provide commenters a reasonable period of time to continue the effort to reach consensus regarding a consistent filing position. In this regard, we are not persuaded, based on the record before us, that providing the requested limited relief would adversely affect implementation of the 800 MHz band reconfiguration. We therefore extend the comment and reply comment deadlines in this proceeding to May 18, 2005 and June 2, 2005, respectively.

4. Accordingly, IT IS ORDERED that, pursuant to sections 4(i) and 4(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 154(j), and sections 0.131, 0.331, and 1.46 of the Commission's rules, 47 C.F.R. §§ 0.131, 0.331, and 1.46, the deadline for filing comments in response to the *Notice of Proposed Rulemaking* is extended to May 18, 2005, and the deadline for filing reply comments is extended to June 2, 2005.

FEDERAL COMMUNICATIONS COMMISSION



Catherine W. Seidel
Acting Chief, Wireless Telecommunications Bureau

⁶ *Id.* at 4.

⁷ Opposition of Nextel Communications, Inc. to Request for Extension of Time at 2-3, *citing* Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, *Report and Order*, 19 FCC Rcd 14,696 (2004).

⁸ 47 C.F.R. § 1.946(a).

⁹ *Notice* at 13 ¶ 35.